

John Curtin

From: John Curtin [jcurtin@cappat.com]
Sent: Tuesday, April 07, 2009 2:58 PM
To: 'earline.green@uspto.gov'
Subject: from john curtin, esq
Attachments: US Application No 09751159 (zipped) Folder.zip; US Application No. 09477880 (zipped) Folder.zip; 2007-05-24 Appeal Brief 09767839 (Acceptable).pdf; 2007-06-20 Appeal Brief 09919047(Acceptable).pdf; 2007-06-25 Appeal Brief 10073931(Acceptable).pdf

Mrs. Green:

In January we spoke about two applications that received Abandonment Notices during 2007.

The applications are S/N 09/751,159 and 09/477,880.

As we understand it the reasons for the abandonments were due to our failure to format the Appeal Briefs properly. More particularly, in Section VII, Summary of The Claimed Subject Matter, we placed the citations to the specification at the end of the claims instead of within the claims.

That said, we do not know the exact basis for the abandonments and could not get anyone at the PTO to articulate one. It is our understanding that the formatting of the Appeal Briefs was reviewed by a separate clerical group, not the Examiner on the application.

Here is our dilemma. We do not know how to proceed.

At the same time these Appeal briefs were being rejected for improper formatting others were being accepted that used the same formatting. For example, S/N 09/767,839, 09/919,047 and 10/073,931.

Worse yet, in the two applications tat were rejected we tried multiple times to correct the formatting but each time it was rejected. We have never been given a satisfactory explanation for the abandonments. In addition, it appears that different Appeal Brief clerks were applying different standards of review to the formatting. Worst of al these abandonments have cause substantive hardship to our client.

After we received the second Abandonment Notice in October 2007 we decided to file a Petition. However, the USPTO then announced it was changing the Appeal procedure again. So, we decided to wait until the new rules were announced. However, the USPTO then decided not to change the Appeal procedure. We then called you.

HELP!!!

We just need some guidance on how to proceed. If we have to we can file Petitions but they are costly to our client. We do not think the abandonments can be justified give the different ways in which the clerical group was applying the formatting rules.

We have attached the Appeal Briefs in the two applications that received abandonment notices as well as the three applications where the Appeal Briefs were accepted.

John E. Curtin, Esq.

Managing Partner

On behalf of the

CAPITOL PATENT & TRADEMARK LAW FIRM, PLLC



Capitol Patent & Trademark Law Firm, PLLC

www.cappat.com

8221 Old Courthouse Road, Suite 370

Vienna, Va 22182 USA

P: (703) 266-3330

jcurtin@cappat.com

ATTENTION This message is confidential and intended only for the individual to whom or entity to which it is addressed. This message may contain information that is protected by an attorney/client privilege and/or an attorney work product immunity from disclosure. If you are not the intended recipient or addressee, or an employee or agent responsible for delivering this message to the addressee, you are hereby notified that any dissemination, distribution, or copying, in whole or part, of this message is strictly prohibited. If you believe that you have been sent this message in error, please do not read it. Please immediately reply to sender that you have received this message in error. Then permanently delete all copies of the message. Thank you.